

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1235

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection (c) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state, beginning not less than one-fourth (1/4) mile from the crossings:

- (1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and
- (2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and

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bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

(c) ~~This subsection applies only to:~~

~~(1) a city or town that had an ordinance in effect and approved by the Indiana department of transportation on January 1, 1991 that regulated the sounding of a whistle or the ringing of a bell in the city or town; and~~

~~(2) a crossing that was included in an ordinance on January 1, 1991~~

A city, ~~or town, or county~~ may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city ~~or the town, or the county~~. **However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2.** Before an ordinance adopted under this subsection goes into effect, the city, ~~or town, or county~~ must receive the written permission of the department to regulate the sounding or the ringing. The department ~~may~~ **shall** grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to a particular crossing, will not create an undue risk of harm to the public. **An ordinance approved and in effect on January 1, 1991, regulating the sounding of a whistle or the ringing of a bell in a city or town remains approved and in effect.**

(d) Notwithstanding a contrary provision in an ordinance adopted under subsection (c), an engineer or other person who is operating an engine shall sound the engine's whistle if an apparent emergency exists.

(e) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection (c) applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

(f) The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection (c) applies not less than one (1) time in a five (5) year period.

(g) The Indiana department of transportation may not revoke the



permission granted under subsection (c) for an ordinance.

SECTION 2. An emergency is declared for this act.

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